IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

WP(C).No. 19278 of 2007(T)

PETITIONER:

SHAHIDA SHAJAHAN, D/O.MUSTHAFA,
AGED 40 YEARS, PSYCHO COUNCILOR, RESIDING AT
NADAKKAVIL KIZHAKKETHIL, CHINGOLI MURI, CHINGOLI
VILLAGE, CHINGOLI P.O., KARTHIKAPPALLI TALUK,
ALAPPUZHA DISTRICT.

BY ADV. SRI.M.K.NOUSHAD

RESPONDENTS:
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1. SUNIL, S/O.JANARDHANAN, AGED ABOUT
30 YEARS, SANIL BHAVAN, CHINGOLI P.O.,
CHINGOLI VILLAGE, KARTHIKAPPALLI TALUK,
ALAPPUZHA DISTRICT.

2. RAJU, S/O.BABY, AGED 45 YEARS, RESIDING
AT BONY VILLA, CHINGOLI P.O.,
CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT.

3. BENNY, S/O.JOSEPH, AGED 35 YEARS,
BENNY VILLA, NANGIARKULANGARA MURI,
CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT.

4. SURESHKUMAR, S/O.JANARDHANAN, AGED
36 YEARS, CHALIL HOUSE, CHINGOLI P.O.,
CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DIST.

5. JANARDHANAN, CHALIL HOUSE, CHINGOLI P.O.
CHINGOLI VILLAGE, KARTHIKAPPALLY TALUK,
ALAPPUZHA DISTRICT.

6. SURESH PANIKKAR, FATHER'S NAME NOT KNOWN AGED 36 YEARS, MULAVANA HOUSE, NANGIARKULANGARA P.O., KARTHIKAPPALLY TALUK, ALPPUZHA DIST.

7. THE SUB INSPECTOR OF POLICE, KARIYILAKULANGARA, ALAPPUZHA DISTRICT.

8. THE CIRCLE INSPECTOR OF POLICE, KAYAMKULAM, ALAPPUZHA DISTRICT.

9. THE SUPERINTENDENT OF POLICE, ALAPPUZHA, ALAPPUZHA DISTRICT.

*** 10. MURALI, A.S.I., KARIYILAKKULANGARA POLICE STATION, ALAPPUZHA DISTRICT. (DELETED)**

***DELETED AS PER ORDER DATED 27/06/2007 IN IA NO. 8577/2007.**

11. THE SECRETARY TO GOVERNMENT, HOME DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SRI.S.SANAL KUMAR - R1 TO R6
SMT.BHAVANA VELAYUDHAN
GOVERNMENT PLEADER SRI. SALIM P.A.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 19278/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER OF INJUNCTION PASSED IN IA NO. 910/07 IN OS NO. 161/07 ON THE FILE OF MUNSIFF COURT, HARIPPAD.

EXT.P2. COPY OF THE SUIT NO. 161/07 DT. 15/6/07 OF THE MUNSIFF COURT, HARIPPAD.

EXT.P3. COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE R9 DT. 16/6/07.

EXT.P4. COPY OF THE FIR NO. 247/07 REGISTERED BY THE POLICE ON 30/6/07.

EXT.P . COPY OF THE COMMISSION REPORT ALONG WITH THE SKETCH PREPARED BY THE ADVOCATE COMMISSIONER DT. 27/6/2007.

RESPONDENT'S EXHIBITS **NIL.**

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K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.19278 of 2007-T

Judgment

Balakrishnan Nair, J.

The petitioner is having 26.18 ares of land in RS Nos.115/6, 115/7 & 115/8/1 of Chingoli village of Karthikappilly taluk in Alappuzha district. She submits, when the party respondents tried to trespass into the said property, she moved the civil court and obtained Ext.P1 interim injunction against them. Ext.P2 is the suit filed by her. But the party respondents did not obey the interim injunction. So, she filed Ext.P3 petition before the SI of Police, claiming protection. She pointed out that the persons mentioned therein were trying to demolish the fencing of her property. On 16.06.2007, respondents 1 to 6 trespassed into her property and destroyed the fencing and also threatened to kill her. Though she moved the Police, the Assistant Sub Inspector present in the station, did not take any action. The said Officer and his subordinates are supporting respondents 1 to 6, the petitioner alleges. According to her, the party respondents want to widen an existing pathway on the western side of the petitioner's property at her expense. In the above background, this Writ

Petition is filed, seeking the following reliefs :

> *"i. issue a writ of mandamus directing the respondents 7 to 9 and 11 to grant adequate police protection to the petitioner's person.*
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> *ii. issue a writ of mandamus directing the respondents 7 to 9 and 11 to grant adequate police protection to the petitioner's property situated in Survey Nos.115/6, 115/7 and 115/8/1 of Chingoli village of Karthikappally taluk described in the schedule of Ext.P2.*
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> *iii. issue a writ of mandamus directing the 9th respondent to take appropriate legal action against the 10th respondent for his wilful omission on duty and false direction given to the petitioner."*

2. This Court granted interim order to protect the life of the petitioner. The petitioner submits, even when the said order was in force, she was manhandled. The learned Government Pleader upon instruction, submitted that on the strength of the interim order, the petitioner tried to do the fencing of the property and that was the reason for the obstruction caused by the local

people. Respondents 1 to 6 would submit that the petitioner is trying to fence her property, enclosing within it, a public drain also. The petitioner denied the allegation of the respondents.

3. For the protection of the property, the petitioner has to get appropriate orders from the civil court. If the fencing is to be done on any portion of the boundary, for that also, she has to seek reliefs from the civil court. If the defendants therein do not obey the orders of the civil court, she has remedies under the Code of Civil Procedure. The protection already granted to the life of the petitioner will remain in force subject to the condition that the same need be extended only for visiting her property and also only on intimation regarding the date and time of the visit. The petitioner shall inform the 7th respondent if she apprehends any violence from the part of respondents 1 to 6, when she visits her property. In that event, the 7th respondent will look into the same and do the needful to protect the life of the petitioner, if her apprehension is found

to be genuine. This order shall not be used by the petitioner for fencing her property.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR,JUDGE

12.09.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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